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Attorneys for the Defendants

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
---X
METTANIE TAPIA, SHAUNA KERN on behalf of themselves and all others similarly situated,

Plaintiffs,

-against-

F.M.M.L. VENTURES, INC. d/b/a SUGARDADDY'S GENTLEMAN'S CLUB, FRANK MALATESTA, individually, MARIA LANTIN, individually,

Defendants.
---X

14 Civ. 7338 (ENV)(CLP)

ANSWER

ANSWER

The defendants F.M.M.L. VENTURES, INC. d/b/a SUGARDADDY'S GENTLEMAN'S CLUB, FRANK MALATESTA and MARIA LANTIN, (hereinafter referred to, collectively, as the "Defendants")**,** by and through their attorneys, STEPHEN D. HANS AND ASSOCIATES, P.C., as and for their Answer to the complaint dated and filed in this action on December 12, 2014 (hereinafter the "Complaint") by the plaintiffs METTANIE TAPIA and SHAUNA KERN (hereinafter referred to as the "Plaintiffs"), allege as follows:

AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS REGARDING "NATURE OF THE ACTION"

1. With respect to the allegations contained in Paragraph 1 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph; except that the Defendants admit only that the Plaintiffs have commenced this action and purport to seek the requested relief.

2. With respect to the allegations contained in Paragraph 2 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

3. With respect to the allegations contained in Paragraph 3 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS REGARDING "JURISDICTION"

4. With respect to the allegations contained in Paragraph 4 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

5. With respect to the allegations contained in Paragraph 5 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

6. With respect to the allegations contained in Paragraph 6 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS REGARDING "VENUE"

7. With respect to the allegations contained in Paragraph 7 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS REGARDING "THE PARTIES"

Plaintiffs

8. With respect to the allegations contained in Paragraph 8 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

9. With respect to the allegations contained in Paragraph 9 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

10. With respect to the allegations contained in Paragraph 10 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

11. With respect to the allegations contained in Paragraph 9 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

12. With respect to the allegations contained in Paragraph 12 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

Defendants

13. With respect to the allegations contained in Paragraph 13 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

14. With respect to the allegations contained in Paragraph 14 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

15. With respect to the allegations contained in Paragraph 15 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

16. With respect to the allegations contained in Paragraph 16 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

17. With respect to the allegations contained in Paragraph 17 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

18. With respect to the allegations contained in Paragraph 18 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

19. With respect to the allegations contained in Paragraph 19 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

20. With respect to the allegations contained in Paragraph 20 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

21. With respect to the allegations contained in Paragraph 21 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

22. With respect to the allegations contained in Paragraph 22 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS REGARDING "CLASS ACTION ALLEGATIONS"

23. With respect to the allegations contained in Paragraph 23 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph; except that the Defendants admit only that the Plaintiffs have commenced this action and purport to seek the requested relief.

24. With respect to the allegations contained in Paragraph 24 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

25. With respect to the allegations contained in Paragraph 25 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

26. With respect to the allegations contained in Paragraph 26 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

27. With respect to the allegations contained in Paragraph 27 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

28. With respect to the allegations contained in Paragraph 28 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

29. With respect to the allegations contained in Paragraph 29 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

30. With respect to the allegations contained in Paragraph 30 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

31. With respect to the allegations contained in Paragraph 31 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

32. With respect to the allegations contained in Paragraph 32 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

33. With respect to the allegations contained in Paragraph 33 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

34. With respect to the allegations contained in Paragraph 34 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS REGARDING "COLLECTIVE ACTION ALLEGATIONS"

35. With respect to the allegations contained in Paragraph 35 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

36. With respect to the allegations contained in Paragraph 36 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

37. With respect to the allegations contained in Paragraph 37 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

38. With respect to the allegations contained in Paragraph 38 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

39. With respect to the allegations contained in Paragraph 39 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

40. With respect to the allegations contained in Paragraph 40 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

41. With respect to the allegations contained in Paragraph 41 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

42. With respect to the allegations contained in Paragraph 42 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

43. With respect to the allegations contained in Paragraph 43 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS REGARDING "DEFENDENTS' SUPERVISION AND CONTROL OF THE PLAINTIFFS AND CLASS MEMBERS"

44. With respect to the allegations contained in Paragraph 44 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

45. With respect to the allegations contained in Paragraph 45 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

46. With respect to the allegations contained in Paragraph 46 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

47. With respect to the allegations contained in Paragraph 47 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

48. With respect to the allegations contained in Paragraph 48 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

49. With respect to the allegations contained in Paragraph 49 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

50. With respect to the allegations contained in Paragraph 50 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS REGARDING "SUGARDADDY'S FAILURE TO PAY MINIMUM WAGE AND OVERTINE PAY"

51. With respect to the allegations contained in Paragraph 51 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

52. With respect to the allegations contained in Paragraph 52 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

53. With respect to the allegations contained in Paragraph 53 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

54. With respect to the allegations contained in Paragraph 54 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

55. With respect to the allegations contained in Paragraph 55 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

56. With respect to the allegations contained in Paragraph 56 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

57. With respect to the allegations contained in Paragraph 57 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS REGARDING "SUGARDADDY'S UNLAWFUL DEDUCTIONS FROM WAGES AND UNLAWFUL RETENTION OF TIPS"

58. With respect to the allegations contained in Paragraph 58 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

59. With respect to the allegations contained in Paragraph 59 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

60. With respect to the allegations contained in Paragraph 60 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

61. With respect to the allegations contained in Paragraph 61 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

62. With respect to the allegations contained in Paragraph 62 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

63. With respect to the allegations contained in Paragraph 63 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

64. With respect to the allegations contained in Paragraph 64 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

65. With respect to the allegations contained in Paragraph 65 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

66. With respect to the allegations contained in Paragraph 66 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

67. With respect to the allegations contained in Paragraph 67 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

68. With respect to the allegations contained in Paragraph 68 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

69. With respect to the allegations contained in Paragraph 69 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

70. With respect to the allegations contained in Paragraph 70 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

71. With respect to the allegations contained in Paragraph 71 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS REGARDING "DEFENDANTS' VIOLATIONS OF THE WAGE THEFT PREVENTION ACT"

72. With respect to the allegations contained in Paragraph 72 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

73. With respect to the allegations contained in Paragraph 73 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

74. With respect to the allegations contained in Paragraph 74 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

75. With respect to the allegations contained in Paragraph 75 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO
PLAINTIFFS' "FIRST CAUSE OF ACTION"
(Fair Labor Standards Act – Unpaid Minimum Wages)

76. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

77. With respect to the allegations contained in Paragraph 77 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

78. With respect to the allegations contained in Paragraph 78 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

79. With respect to the allegations contained in Paragraph 79 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

80. With respect to the allegations contained in Paragraph 80 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

81. With respect to the allegations contained in Paragraph 81 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

82. With respect to the allegations contained in Paragraph 82 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

83. With respect to the allegations contained in Paragraph 83 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO
PLAINTIFFS' "SECOND CAUSE OF ACTION"
(Fair Labor Standards Act – Overtime Wages)

84. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

85. With respect to the allegations contained in Paragraph 85 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

86. With respect to the allegations contained in Paragraph 86 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

87. With respect to the allegations contained in Paragraph 87 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

88. With respect to the allegations contained in Paragraph 88 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO
PLAINTIFFS' "THIRD CAUSE OF ACTION"
(New York Labor Law – Unpaid Minimum Wages)

89. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

90. With respect to the allegations contained in Paragraph 90 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

91. With respect to the allegations contained in Paragraph 91 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

92. With respect to the allegations contained in Paragraph 92 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

93. With respect to the allegations contained in Paragraph 93 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

94. With respect to the allegations contained in Paragraph 94 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO
PLAINTIFFS' "FOURTH CAUSE OF ACTION"
(New York Labor Law – Unpaid Overtime)

95. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

96. With respect to the allegations contained in Paragraph 96 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

97. With respect to the allegations contained in Paragraph 97 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

98. With respect to the allegations contained in Paragraph 98 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO
PLAINTIFFS' "FIFTH CAUSE OF ACTION"
(New York Labor Law – Tip Misappropriation)

99. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

100. With respect to the allegations contained in Paragraph 100 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

101. With respect to the allegations contained in Paragraph 101 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

102. With respect to the allegations contained in Paragraph 102 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

103. With respect to the allegations contained in Paragraph 103 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

104. With respect to the allegations contained in Paragraph 104 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

105. With respect to the allegations contained in Paragraph 105 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO
PLAINTIFFS' "SIXTH CAUSE OF ACTION"
(New York Labor Law – Unlawful Deductions from Wages)

106. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

107. With respect to the allegations contained in Paragraph 107 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

108. With respect to the allegations contained in Paragraph 108 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

109. With respect to the allegations contained in Paragraph 109 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

110. With respect to the allegations contained in Paragraph 110 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

111. With respect to the allegations contained in Paragraph 111 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO
PLAINTIFFS' "SEVENTH CAUSE OF ACTION"
(New York Labor Law – Uniform Violations)

112. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

113. With respect to the allegations contained in Paragraph 113 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

114. With respect to the allegations contained in Paragraph 114 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

115. With respect to the allegations contained in Paragraph 115 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

116. With respect to the allegations contained in Paragraph 116 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

AS AND FOR AN ANSWER TO
PLAINTIFFS' "EIGHTH CAUSE OF ACTION"
(New York Labor Law – Failure to Provide Wage Notices)

117. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

118. With respect to the allegations contained in Paragraph 118 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

119. With respect to the allegations contained in Paragraph 119 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

120. With respect to the allegations contained in Paragraph 120 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

121. With respect to the allegations contained in Paragraph 121 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

122. With respect to the allegations contained in Paragraph 122 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

123. With respect to the allegations contained in Paragraph 123 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

AFFIRMATIVE AND OTHER DEFENSES

The Defendants assert the following affirmative and other defenses without assuming any burden of production or proof that they would not otherwise have. The Defendants further assert that, to the extent that the Plaintiffs' claims as alleged are vague or unclear, so as to render it difficult or impossible to identify and assert every possible affirmative or other defense, the Defendants hereby expressly reserve their rights to assert additional defenses should further proceedings in this action, including the progress of any discovery, reveal that such additional defenses would be applicable and appropriate.

AS AND FOR A FIRST DEFENSE TO THE PLAINTIFFS' COMPLAINT

The statements and allegations contained in the Plaintiffs' Complaint may fail to state any valid cause(s) of action upon which relief can be granted as a matter of fact and/or law, either on behalf of the Plaintiffs or on behalf of those persons whom they purport to represent.

AS AND FOR A SECOND DEFENSE TO THE PLAINTIFFS' COMPLAINT

The causes of action alleged in the Complaint may be barred, in whole or in part, by applicable statutes of limitation.

AS AND FOR A THIRD DEFENSE TO THE PLAINTIFFS' COMPLAINT

The causes of action alleged in the Complaint may not be maintained as a collective action under the Fair Labor Standards Act, 29 U.S.C. § 216, because the Plaintiffs, upon information and belief, are not similarly situated to some or all of the persons whom they purport to represent.

AS AND FOR A FOURTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

The statements and allegations contained in the Complaint fail to meet the requirements necessary to justify collective action certification or the issuance of collective action notice pursuant to 29 U.S.C. § 216 with respect to some or all of the employees alleged by the Plaintiffs to be similarly situated to them.

AS AND FOR A FIFTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

Subject to proof through discovery, some or all of the claims asserted by the Plaintiffs and/or the putative class members may be barred in whole or in part by the doctrine of unclean hands.

AS AND FOR A SIXTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

Subject to proof through discovery, some or all of the claims asserted by the Plaintiffs and/or the putative class members may be barred in whole or in part by the doctrine of estoppel, quasi-estoppel, and/or equitable estoppel.

AS AND FOR A SEVENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

Subject to proof through discovery, some or all of the claims asserted by the Plaintiffs and/or the putative class members may be barred in whole or in part by the doctrines of laches and/or waiver.

AS AND FOR AN EIGHTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

Subject to proof through discovery, the Plaintiffs and/or the putative class members may not meet the requirements of Rule 23 of the Federal Rules of Civil Procedure, and this action may not properly be maintained as a class action with respect to some or all of the claims asserted.

AS AND FOR A NINTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

Subject to proof through discovery, the Plaintiffs and/or the putative class members may lack standing or may otherwise not be entitled to bring, maintain, or participate in a collective or class action under the FLSA or Rule 23 of the Federal Rules of Civil Procedure.

AS AND FOR A TENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

The Defendants state, in the alternative if necessary, that part or all of any of the time for which the Plaintiffs and/or the putative class members seek compensation is properly preliminary or postliminary time under the provisions of the Portal-to-Portal Pay Act, 29 U.S.C. § 254(a), and is therefore not compensable.

AS AND FOR AN ELEVENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

The Defendants state, in the alternative if necessary, that their actions or omissions with respect to the Plaintiffs and/or putative class members were taken in good faith, with reasonable belief that such conduct comported with the requirements of federal and state law.

AS AND FOR A TWELFTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

Some or all of the Plaintiffs' and/or putative class members' claims for class action relief under New York state law fail because New York law prohibits class claims that include invocation of penalties and/or liquidated damages.

AS AND FOR A THIRTEENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

Some or all of the Defendants are not proper parties to some or all of the claims asserted in the Complaint.

AS AND FOR A FOURTEENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

The named Plaintiffs, upon information and belief, would inadequately protect and represent the interests of any potential class.

AS AND FOR A FIFTEENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

The Plaintiffs' and/or putative class members' claims may be barred, in whole or in part, because some of the Defendants were not the Plaintiffs' and/or putative class members' "employer" as such term may be defined under applicable federal or state laws and regulations.

AS AND FOR A SIXTEENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

To the extent that any of the Plaintiffs and/or putative class members may have received compensation beyond that to which they were entitled under law, such additional compensation may satisfy, in whole or in part, any alleged claim for unpaid wages and overtime compensation or other monetary relief.

AS AND FOR A SEVENTEENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

The Defendants state, in the alternative if necessary, that if they are found to have violated any law or regulation, that any such violation was not willful.

RESERVATION OF RIGHTS TO ASSERT ADDITIONAL DEFENSES

The Defendants state that they currently have insufficient knowledge or information on which to form a belief as to whether they may have additional, as yet unstated, defenses available. As such, the Defendants expressly reserve the right to assert additional defenses, and to seek to amend this Answer to include any such additional defenses, in the event that discovery indicates that any such additional defenses would be appropriate.

WHEREFORE, the Defendants respectfully request that judgment be entered by this Court dismissing any claims in the Complaint that are deemed by the Court to be lacking in merit, with prejudice, and granting such further relief as may be just and proper.

Dated: Long Island City, New York
February 9, 2015

STEPHEN D. HANS & ASSOCIATES, P.C.

By:_____/s/_________________________

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